



DEPARTMENT OF LABOR

Office of Labor-Management Standards

Information Collection Request; comment request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to **comment** on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Labor-Management Standards (OLMS) of the Department of Labor (Department) is soliciting comments concerning the proposal to amend the information collection request 1245-0003, as well as the Form LM-2, LM-3, and LM-4 Labor Organization Annual Report instructions to require filers of such reports to submit the reports electronically, as well as modify the hardship exemption process for Form LM-2 filers. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before [insert date 60 days from the date of publication].

ADDRESSEE: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-5609, Washington, DC 20210, olms-public@dol.gov, (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD).

Please use only one method of transmission (mail or submission via www.regulations.gov using RIN: 1245-AA06) to submit comments or to request a copy of this information collection and its supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden. You may also request a copy of this information collection and its supporting documentation by sending an email to olms-public@dol.gov.

SUPPLEMENTARY INFORMATION

I. Background: Congress enacted the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), to provide for the disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. Section 208 of the LMRDA authorizes the Secretary to issue rules and regulations prescribing the form of the required reports. The reporting provisions were devised to implement a basic tenet of the LMRDA: the guarantee of democratic

procedures and safeguards within labor organizations, which are designed to protect the basic rights of union members.

Pursuant to section 201 of the LMRDA, the Department established annual financial disclosure reports: the Form LM-2, LM-3, and LM-4. These reports detail the receipts, disbursements, assets, and liabilities of covered labor organizations during their previous fiscal year. The Form LM-2 is the most detailed report, for those labor organizations with \$250,000 or more in total annual receipts. The Form LM-3 is available for those labor organizations with fewer than \$250,000 in total annual receipts, and the Form LM-4 is available for those labor organizations with fewer than \$10,000 in total annual receipts.¹

Section 205 of the LMRDA provides that the reports are public information. Filers submit the reports to the Department's Office of Labor-Management Standards (OLMS), pursuant to the OLMS Information Collection Request (ICR), OMB # 1245-0003 (Form LM-1, LM-2, LM-3, LM-4, Simplified Annual Report, LM-10, LM-15, LM-15A, LM-16, LM-20, LM-21, LM-30, and S-1). Currently, filers can submit the Forms LM-2, LM-3, LM-4, and LM-30 electronically through the OLMS free and web-based Electronic Forms System (EFS).² EFS does not rely on third-party software or require the purchase of digital signatures; instead, EFS is a secure, web-based system that uses electronic signatures, which the filing organization's two principal officers register for, along with the union, obtaining a personal identification number (PIN) each

¹ Pursuant to LMRDA Titles II and III, the Department also established nine other reporting and disclosure forms: the Form LM-1 Information Report; Form LM-10 Employer Report; Forms LM-15, 15-A, and 16 trusteeship reports; Form LM-20 Agreement and Activities Report; Form LM-21 Receipts and Disbursement Report; Form LM-30 Officer and Employee Report; and Form S-1 Surety Report.

² In May 2011, EFS first became available for LM-3 and LM-4 filers, and those unions with fiscal years ending after June 30, 2011 began to take advantage of electronic filing. Prior to this implementation of EFS, few Form LM-3 and LM-4 unions utilized EFS, since they would be required to purchase a digital signature. As stated, EFS is free of charge.

year. However, only Form LM-2 filers are currently required to use EFS, although the Form LM-2 instructions provide a temporary and continuing hardship exemption process. Form LM-3 and LM-4 filers, as well as Form LM-30 filers, can choose instead to print off the completed form, sign manually, and mail the form to OLMS.

In response to requests from union members, the media, members of Congress, and other interested parties for Internet access to reports filed by unions under the LMRDA, OLMS developed a website (<http://www.union-reports.dol.gov>) where individuals may now view union annual financial reports and conduct data searches, displaying the results in a number of preformatted listings, free of charge. OLMS can instantaneously post reports submitted via EFS. Reports submitted via mail must be scanned and then posted, with certain data manually entered.

Authority:

The legal authority for this notice is set forth in 35 U.S.C. 3506(c)(2), and sections 203 and 208 of the LMRDA, 29 U.S.C. § 432, 438. Section 208 of the LMRDA provides that the Secretary of Labor shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under Title II of the Act and such other reasonable rules and regulations as he may find necessary to prevent the circumvention or evasion of the reporting requirements. 29 U.S.C. 438. The Secretary has delegated his authority under the LMRDA to the Director of the Office of Labor-Management Standards and permits re-delegation of such authority. See Secretary's Order 8-2009, 74 FR 58835 (Nov. 13, 2009).

Mandatory Electronic Filing of the Forms LM-3 and LM-4:

The Department seeks to amend ICR 1245-0003, as well as the Forms LM-3 and LM-4

instructions, to require mandatory electronic filing of these reports, as well as modify the Form LM-2 hardship exemption process to correspond with that proposed for the Form LM-3 and LM-4 reports, which would only permit temporary hardship exemption submissions, not continuing. The Department believes that reasonable changes must be made to the means by which the forms required under LMRDA Title II are filed. The most efficient way to provide meaningful access to this information by interested members of the public is to require that the reports filed by small and medium-sized labor organizations be filed in electronic form. This change will benefit the filers, union members, and the public, as well as the Department.

First, EFS provides significant advantages for filers. Electronic forms can significantly reduce the burden for filing the Forms LM-3 and LM-4, because they pre-populate a significant amount of informational items and are more efficient for reporting entities. Further, EFS provides error-checking functionality, as well as online, context-sensitive help, which improves the completeness of the reporting. Moreover, a filer can easily acquire a PIN and password and submit the report, free of charge, removing the burden of printing, manually reviewing and signing, and then mailing. As detailed in its last ICR renewal for OMB #1245-0003, Form LM-3 filers will experience a reporting burden hour reduction from an estimated 52 hours to 38.74 hours. With the existing, unchanged 64 recordkeeping burden hours, the total hour burden to complete the Form LM-3 is estimated to be 102.74 hours, a reduction from the previous total of 116 hours. The estimated number of respondents per filer is unchanged, as the proposed changes only affect the method of filing, not the universe of filers. Most labor unions have the information technology resources and capacity to file electronically. Indeed, although no specific data exists regarding the extent to which unions have already embraced the technology

necessary to provide reports in electronic form, in 2014, approximately 40% of Form LM-3 unions and 37% of Form LM-4 unions filed their reports electronically. In any event, the Department has also proposed a process for a temporary hardship exemption, whereby filers may apply to temporarily submit paper forms, permitting additional time to complete the report electronically.

Second, EFS offers numerous benefits for the public. In contrast to the efficiency of e-filing, paper reports must be scanned and processed for data entry before they can be posted online for disclosure, which delays their availability for public review. Mandatory e-filing would therefore result in more immediate availability of the reports on the OLMS public disclosure website, and improve the efficiency of OLMS in processing the reports and in reviewing them for reporting compliance. Mandatory e-filing will also improve accessibility to the LM-3 and LM-4 forms for people with disabilities. Under Section 508 of the Rehabilitation Act, federal agencies must ensure that members of the public who are disabled and who are seeking information or services from a Federal agency “have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.”³ Mandating electronic filing of the Forms LM-3 and LM-4 will help ensure that people with disabilities have access to those forms. Currently, hardcopy submissions of the Forms LM-3 and LM-4 must be scanned and converted to PDF format for posting on the OLMS public disclosure website. The scanned reports, which often contain handwritten entries and signatures, would then have to be further processed in order to be made Section 508 compliant. Considering the thousands of reports that are submitted manually every

³ See 29 U.S.C. § 794d(1)(A)(ii).

year, the process to make these reports fully accessible would be extremely time-consuming and resource-intensive. Forms filed electronically will be easier and less costly to convert into a format that is accessible to people with disabilities and will facilitate compliance with Section 508.

Third, mandatory e-filing will save the Department resources. Currently, only the Form LM-2 must be submitted to OLMS electronically, and there has been good compliance with this submission requirement. Requiring Form LM-3 and LM-4 reports to be filed electronically using a web-based system provided by OLMS and making the submitted reports available on the website will decrease the number of requests for reports that must be handled manually, freeing OLMS staff for other compliance assistance and enforcement work. Furthermore, electronic filing of Form LM-3 and LM-4 reports will enable OLMS to more efficiently sort, review, and analyze data that can be used more effectively for enforcement and compliance assistance purposes.

Overview of revised Form LM-3 and LM-4 instructions:

Section IV (How to File), Form LM-2 and Form LM-3 Section XI (Completing Form LM-2 or LM-3), and Form LM-4 Section IX (Completing Form LM-4): The instructions in these sections will change to implement mandatory electronic filing. Mandatory electronic filing will minimize the burdens for unions that file the Forms LM-3 or LM-4, and increase efficiency for the Department of Labor as it processes the reports and makes the reports available to union members and the public. The web-based software will pre-populate certain data, perform many calculations, and help ensure the accuracy and completeness of the forms. A union will be

permitted to file a paper format Form LM-3 or LM-4, however, if it claims a temporary hardship exemption. Such process will enable the filer to submit a paper report by the required due date, with an electronic report submitted within ten business days after their required due date. The hardship exemption procedures are modeled after the existing procedures used by Form LM-2 filers, although the Department proposes just a temporary hardship exemption, not a continuing hardship exemption, as Form LM-2 filers have utilized. The Department notes that the continuing hardship exemption process derives from the Department's initial electronic filing system, which was not web-based and required the purchase of a digital signature. The creation of EFS eliminated the problems and costs associated with the prior system, and the Department therefore does not consider the continuing hardship exemption portion of the process to be necessary. The Department therefore also proposes an amendment to the Form LM-2 instructions, eliminating the continuing portion of the hardship exemption process, leaving just the temporary hardship exemption. The temporary hardship exemption process is explained in the instructions to the forms that accompany this notice. The Department invites comments regarding any alternative procedures that might better address problems associated with mandatory electronic filing of the Forms LM-3 and LM-4.

While no other changes to any other forms covered by this ICR are contemplated at this time, the agency seeks comments on any aspect of this information collection. Those comments will be used to revise and extend OMB authorization under the PRA for this information collection.

II. Review Focus: The Department is particularly interested in comments which:

- * evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- * enhance the quality, utility and clarity of the information to be collected; and
- * minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

III. Current Actions: The Department seeks to revise this information collection to provide for electronic filing. The information collected by OLMS is used by union members to help self-govern their unions, by workers making decisions regarding their collective bargaining rights, by the general public, and as research material for both outside researchers and within the Department. The information is also used to assist the Department and other government agencies in detecting improper practices on the part of labor organizations, their officers and/or representatives, and is used by Congress in oversight and legislative functions.

Burden Statement: The Department does not anticipate any changes to its burden estimates, as provided in its most recent extension request for OMB #1245-0003.⁴ The only forms affected by this ICR amendment are the Forms LM-3 and LM-4. Further, none of the proposed changes affect the number of respondents. Rather, they would only affect the burden hours per respondent. Additionally, as stated in Part I, the Department already accounted for burden hour and cost savings, associated with EFS filing, in its last ICR revision, as it calculated the burden hour reduction associated with the 2011 implementation of EFS for Form LM-3 and LM-4 filers.

⁴ The Department estimates that Form LM-3 and LM-4 filers will incur a one-time burden of one hour, in order to read the revised instructions and familiarize themselves with EFS.

Thus, the Department expects all filers to actualize the burden reductions anticipated in 2013, during the most recent ICR renewal, not just the 40% of Form LM-3 filers and 37% of Form LM-4 filers that currently take advantage of EFS.

The total burden for the Labor Organization and Auxiliary Reports information collection is summarized as follows:

Type of Review: Revision.

Agency: DOL-OLMS.

Title of Collection: Labor Organization and Auxiliary Reports.

OMB Control Number: 1245-0003.

Affected Public: Private Sector—businesses or other for-profits, farms, and not-for-profit institutions; and Individuals or Households.

Total Estimated Number of Responses: 31,501.

Total Estimated Annual Burden Hours: 4,582,392.

Total Estimated Annual Other Costs Burden: \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget (OMB) approval of the information collection request; they will also become a matter of public record. The Department notes that it has a pending rulemaking concerning two of the reports included in the Labor Organization and Auxiliary Reports information collection: the Form LM-10 Employer Report and the Form LM-20 Agreement and Activities Report filed by labor relations consultants. See 76 FR 37292. The

Department received comments on those information collections during the rulemaking, and it will respond to such comments in any final rule issued, as well as in any separate request for amendment to the information collection submitted to OMB in the context of that rulemaking.

DATED: May 14, 2015

Andrew R. Davis

Chief of the Division of Interpretations and Standards

Office of Labor-Management Standards

U.S. Department of Labor

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